

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF DELAWARE**

BAYER HEALTHCARE AG, ALCON, INC.,	)	
	)	
and ALCON MANUFACTURING, LTD.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 06-234 SLR
	)	
TEVA PHARMACEUTICALS USA, INC.,	)	
	)	
Defendant.	)	
	)	

**DEFENDANT'S SUPPLEMENTAL NOTICE PURSUANT TO 35 U.S.C. § 282**

In accordance with 35 U.S.C. § 282, Defendant Teva Pharmaceuticals USA, Inc. (“Defendant”) hereby gives notice to Plaintiffs of the following patents and publications that may be relied on as anticipating or rendering obvious U.S. Patent No. 6,716,830 or showing the state of the art relative to any of the patents-in-suit:

<b>DESCRIPTION</b>	<b>DATE</b>
File history for U.S. Patent Application No. 07/375,434 (issued as U.S. Patent 4,990,517)	12/06/1990
U.S. Patent No. 4,990,517 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	12/06/1990
File history for U.S. Patent Application No. 08/406,448 (issued as U.S. Patent 5,607,942)	08/15/2000
U.S. Patent No. 5,607,942 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	08/15/2000
File history for U.S. Patent Application No. 10/200,868 (issued as U.S. Patent 6,716,830)	03/18/2004
U.S. Patent No. 5,059,597 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	10/22/1991
File history for U.S. Patent Application No. 07/580,906 (issued as U.S. Patent 5,059,597)	10/22/1991

DESCRIPTION	DATE
U.S. Patent No. 5,416,096 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	5/16/1995
File history for U.S. Patent Application No. 07/737,631 (issued as U.S. Patent 5,416,096)	5/16/1995
File history for U.S. Patent Application No. 08/026,906	5/17/1995
<i>Firestone, B.A. et al.</i> , "Solubility characteristics of three fluoroquinolone ophthalmic solutions in an <i>in vitro</i> tear model," Int'l Journal of Pharmaceutics 164 (1998) 119-128	Accepted for publication 11/26/1997
<i>Dalhoff et al.</i> , "In vitro activity of BAY 12-8039, a new 8-methoxyquinolone," Chemotherapy, Vol. 42, No. 6, pp. 410-425 (1996)	November – December 1996
<i>Schmitz et al.</i> , "Relationship between ciprofloxacin, ofloxacin, levofloxacin, sparfloxacin and moxifloxacin (BAY 12-8039) MICs and mutations in <i>grlA</i> , <i>grlB</i> , <i>gyrA</i> , and <i>gyrB</i> in 116 unrelated clinical isolates of <i>Staphylococcus aureus</i> ," J. Antimicrob. Chemother., Vol. 41, pp. 481-484	April 1998
USP Dictionary of USAN and International Drug Names (2000 edition), p. 479	2000
<i>Remington: The Science and Practice of Pharmacy</i> , 19 <sup>th</sup> ed. (1995); Ch. 89: Ophthalmic Preparations (author: Gerald Hecht), pp. 1563-1579 (Mack Publishing Co., Easton, Pa.)	1995
Modern Pharmaceutics, 2 <sup>nd</sup> ed. (1990), Ch. 14: Design and Evaluation of Ophthalmic Pharmaceutical Products (Marcel Dekker, Inc., New York)	1990
Entry for "Ciloxan Solution/Drops; Ophthalmic" in the U.S. Food and Drug Administration's <u>Approved Drug Products with Therapeutics Equivalence Evaluations</u>	7/24/2007
Monograph for Ciloxan from the 53 <sup>rd</sup> edition of the Physicians' Desk Reference, pp. 490-491	1999
Poster entitled "Synthesis and In Vitro Activity of BAY12-8039, a New 8-Methoxyquinolone"	1996
Abstract entitled "Synthesis and In Vitro Activity of BAY12-8039, a New 8-Methoxyquinolone"	1996
Monograph for Ciloxan from the 50 <sup>th</sup> edition of the Physicians' Desk Reference, pp. 472-473	1996
Monograph for Tobradex Ophthalmic Suspension from the 50 <sup>th</sup> edition of the Physicians' Desk Reference, pp. 473-474	1996
Entry for "Ciloxan Ointment; Ophthalmic" in the U.S. Food and Drug Administration's <u>Approved Drug Products with Therapeutic Equivalence Evaluations</u>	7/23/2007
U.S. Patent No. 5,149,693 to Gerald D. Cagle, Thomas O. McDonald, and Allan L. Rosenthal	9/22/1992

DESCRIPTION	DATE
Snyder, et. al., "Ciprofloxacin-resistant Bacterial Keratitis," Am. J. Ophthal., 114:336-338	September 1992
Forster, "The Management of Infectious Keratitis As We Approach the 21 <sup>st</sup> Century," The CLAO Journal, Vol. 24, No. 3, pp. 175-180	July 1998
Zurenko, et al., "Oxazolidinone antibacterial agents: development of the clinical candidates eperezolid and linezolid," Ex. Opin. Invest. Drugs (1997) 6(2): 151-158	1997
Yasaga, et al., "Efficacy of New Streptogramin(Synergicid) and Oxazolidinone(Linezolid) antibiotics against Vancomycin Reduced and Multi-Drug Resistant Staphylococci recovered from Endophthalmitis cultures" (Abstract)	3/15/2001
Callegan, et al., "Antibacterial Activity of the Fourth-Generation Fluoroquinolones Gatifloxacin and Moxifloxacin Against Ocular Pathogens," Adv. Chemother. 20(5): 246-252	September/October 2003
Rubinstein, "History of Quinolones and Their Side Effects," Chemother. 2001; 47(suppl 3): 3-8, 44-46	2001
Internet page printout entitled "Search results from the 'OB_Rx' table for query on '019537'" (Orange Book records for Cipro)	10/29/2007
O'Brien et al., "Topical Ciprofloxacin Treatment of <i>Pseudomonas</i> Keratitis in Rabbits," Arch. Ophthal. 106: 1444-1446	10/1998
Internet page printout entitled "Search results from the 'OB_Rx' table for query on '019735'" (Orange Book records for Floxin)	12/16/1997 (approval date)
Borrmann et al., "Ofloxacin in Human Serum, Urine, and Tear Film After Topical Application," Cornea 11(3): 226-230	1992
U.S. Patent No. 6,395,746 to Gerald Cagle, Robert L. Abshire, David W. Stroman, and John M. Yanni	5/28/2002
Liu, "Pharmacokinetics of Sparfloxacin in the Serum and Vitreous Humor of Rabbits: Physicochemical Properties That Regulate Penetration of Quinolone Antimicrobials," Antimicrob. Agents Chemother. 42: 1417-1423	6/1998
Robertson et al., "Absorption and Distribution of Moxifloxacin, Ofloxacin and Gatifloxacin into Ocular Tissues and Plasma Following Topical Ocular Administration to Pigmented Rabbits," Invest. Ophthalmol. Vis. Sci. 2004:45: E-Abstract 4906 (Abstract)	2004
Solomon et al., "Penetration of Topically Applied Gatifloxacin 0.3%, Moxifloxacin 0.5%, and Ciprofloxacin 0.3% into the Aqueous Humor," Ophthalmology 112(3): 466-469	3/2005

DESCRIPTION	DATE
<i>Wagner et al.</i> , "Evaluation of Moxifloxacin, Ciprofloxacin, Gatifloxacin, Ofloxacin, and Levofloxacin Concentrations in Human Conjunctival Tissue," Arch. Ophthalmol. 123:1282-1283	9/2005
<i>Woodcock et al.</i> , "In Vitro Activity of BAY 12-8039, a New Fluoroquinolone," Antimicrobial Agents and Chemotherapy, Jan. 1997, p. 101-106	1/1997
Monograph for Ciloxan® from the 51 <sup>st</sup> edition of the Physicians' Desk Reference, pp. 468-469	1997
Monograph for Tobradex® from the 51 <sup>st</sup> edition of the Physicians' Desk Reference, pp. 469-470	1997
Monograph for Ocuflox® from the 51 <sup>st</sup> edition of the Physicians' Desk Reference, pp. 478-479	1997
Monograph for Ocuflox® from the 49 <sup>th</sup> edition of the Physicians' Desk Reference, pp. 496-497	1995
Adam, D. 1997 Influence of BAY 12-8039 on phagocytosis, burst, and killing (PKB) activities of human granulocytes. Abstract and Poster F-148, p 171.  <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i>	1997
Al-Nawas, B., Shah, P. 1998 Intracellular activity of ciprofloxacin and moxifloxacin, a new 8-methoxyquinolone, against methicillin-resistant <i>Staphylococcus aureus</i> .  <i>J Antimicrob Chemother; 41:655-658.</i>	June 1998
Aldridge, K., Ashcraft, D. 1996 BAY 12-8039, a new 8-methoxyquinolone: <i>in vitro</i> activity against clinically important anaerobes. Abstract and Poster F-15, p 102.  <i>In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</i>	1996
Aldridge, K., Ashcraft, D. 1997 Comparison of the in vitro activities of BAY 12-8039, a new quinolone, and other antimicrobials against clinically important anaerobes. 1997.  <i>Antimicrob Agents Chemother. 41:709-711.</i>	March 1997

DESCRIPTION	DATE
<p>Bauernfeind, A. 1997            Comparison of the antibacterial activities of the quinolones Bay 12-8039, gatifloxacin (AM 1155), trovafloxacin, clinafloxacin, levofloxacin and ciprofloxacin.</p> <p><i>J Antimicrob Chemother.</i> 40:639-651.</p>	November 1997
<p>Bebear, C., Renaudin, H., et al. 1998  <i>In vitro</i> activity of BAY 12-8039, a new fluoroquinolone, against mycoplasmas.</p> <p><i>Antimicrob Agents Chemother.</i> 42:703-704.</p>	March 1998
<p>Boswell, F., Andrews, J., Wise, R. 1997.            Pharmacodynamic properties of BAY 12-8039 on gram-positive and gram-negative organisms as demonstrated by studies of time-kill kinetics and postantibiotic effect.</p> <p><i>Antimicrob Agents Chemother.</i> 41:1377-1379.</p>	June 1997
<p>Brenwald, N., Gill, M., Wise, R. 1997.            Fluoroquinolone resistance in <i>Streptococcus pneumonia</i> by an efflux mechanism.</p> <p>Abstract and poster C181, p 77. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997
<p>Brueggemann, A., Kugler, K., Doern, G. 1997.  <i>In vitro</i> activity of BAY 12-8039, a novel 8-methoxyquinolone, compared to activities of six fluoroquinolones against <i>Streptococcus pneumonia</i>, <i>Haemophilus influenza</i>, and <i>Moraxella catarrhalis</i>.</p> <p><i>Antimicrob Agents Chemother.</i> 41:1594-1597.</p>	July 1997
<p>Dalhoff, A. 1997.            Dissociated resistance among fluoroquinolones.</p> <p>Abstract 3257, p 90. <i>In Program and abstracts of the 20<sup>th</sup> International Congress of Chemotherapy, Sydney, Australia.</i></p>	1997
<p>Dalhoff, A. 1998.            Lack of <i>in vivo</i> emergence of resistance against BAY 12-8039 in <i>S. aureus</i> and <i>S. pneumonia</i>.</p> <p>Abstract and poster 47.003, p124. <i>In Abstracts of the 8<sup>th</sup> International Congress on Infectious Diseases, Boston, Massachusetts.</i></p>	1998

DESCRIPTION	DATE
<p>Durham, E., Amyes, G., <i>et al.</i> 1997.  <i>In vitro</i> activity of BAY 12-8039 against <i>Staphylococcus aureus</i>.  Abstract and Poster F-139, p 169. In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</p>	1997
<p>Everett, M., Piddock, L. 1998.  Mechanisms of resistance to fluoroquinolones.  In: Kuhlmann, J., Dalhoff, A., Zeiler, H. J. eds. Quinolone Antibacterials, Berlin, Springer Verlag; p 259-296.</p>	1998
<p>Fass, R. 1997.  <i>In vitro</i> activity of BAY 12-8039, a new 8-methoxyquinolone. <i>Antimicrob Agents Chemother.</i> 41:1818-1824.</p>	August 1997
<p>Felmingham, D., Robbins, M., <i>et al.</i> 1996.  <i>In vitro</i> activity of BAY 12-8039 against bacterial respiratory tract pathogens, mycoplasmas and obligate anaerobic bacteria. Abstract, F-8, p 101.  In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</p>	1996
<p>Felmingham, D., Robbins, M., <i>et al.</i> 1997.  <i>In vitro</i> activity of BAY 12-8039.  Abstract &amp; Poster. P1156, p285. In Program and abstracts of the 8<sup>th</sup> European Congress of Clinical Microbiology and Infectious Diseases, Lausanne, Switzerland.</p>	1997
<p>Gillespie, S., Billington, O. 1998.  Activity of BAY 12-8039 against mycobacteria.  Abstract and Poster 55.021, p 176. In Abstracts of the 8<sup>th</sup> International Congress on Infectious Diseases, Boston, Massachusetts.</p>	1998
<p>Goldstein, E., Citron, D., <i>et al.</i> 1997.  <i>In vitro</i> activity of BAY 12-8039, a new 8-methoxyquinolone, compared to the activities of 11 other oral antimicrobial agents against 390 aerobic and anaerobic bacteria isolated from human and animal bite wound skin and soft tissue infections in humans.  <i>Antimicrob Agents Chemother.</i> 41:1552-1557.</p>	July 1997

DESCRIPTION	DATE
<p>Gross, W., Vadney, F., <i>et al.</i> 1997.  <i>In vitro</i> activity of BAY 12-8039, a new 8-methoxyquinolone, against mycobacteria. Abstract and Poster F-144, p 170.  <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997
<p>Grosset, J., Lounis, N., <i>et al.</i> 1998.  <i>In vitro</i> and <i>in vivo</i> activities of moxifloxacin and clinafloxacin against <i>Mycobacterium tuberculosis</i>. Abstract and Poster 55.014, p 175.  <i>In Abstracts of the 8<sup>th</sup> International Congress on Infectious Diseases, Boston, Massachusetts.</i></p>	1998
<p>Heisig, P., Wiedemann, B. 1997.  <i>In vitro</i> activity of the new quinolone BAY 12-8039 against defined mutants of <i>Escherichia coli</i> and <i>Staphylococcus aureus</i>.  Abstract and Poster F-140, p 169. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997
<p>Jacobs, E., Dalhoff, A., Brunner, H. 1996.  Efficacy of BAY 12-8039 in <i>Mycoplasma pneumonia</i> infected guinea pigs. Abstract and Poster F-17, p 102.  <i>In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</i></p>	1996
<p>Ji et al., 1998  <i>In vitro</i> and <i>in vivo</i> activities of moxifloxacin and clinafloxacin against <i>Mycobacterium tuberculosis</i>.  <i>Antimicrob Agents Chemother.</i> 42(8):2066-9.</p>	August 1998
<p>Kenny, G., Cartwright, F. 1997.  Susceptibilities of human mycomplasma to BAY 12-8039.  Abstract and Poster F-143, p 170. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997

DESCRIPTION	DATE
<p>Kitzis, M., Goldstein, F., et al. 1996.  <i>In vitro</i> activity of BAY 12-8039 against multiply-resistant <i>Staphylococcus aureus</i>, <i>Streptococcus pneumoniae</i> and <i>Enterococcus faecalis</i>.</p> <p>Abstract and Poster F-12, p 102. In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</p>	1996
<p>Klugman, K., Capper, T. 1997.  Concentration-dependent killing of antibiotic-resistant pneumococci by the methoxyquinolone moxifloxacin.</p> <p>J Antimicrob Chemother. 40:797-802.</p>	December 1997
<p>Kubitza, D., Stass, H., et al.  BAY 12-8039, a new 8-methoxy-quinolone: Safety, tolerability and steady state pharmacokinetics in healthy male volunteers.</p> <p>Intersci Conf Antimicrob Agents Chemother, New Orleans, Louisiana, 1996 104 Abstr F25.</p>	1996
<p>Kubitza, D., Stass, H., et al.  BAY 12-8039, a new 8-methoxy-quinolone: Safety, tolerability and steady state of pharmacokinetics in healthy male volunteers.</p> <p>Intersci Conf Antimicrob Agents Chemother, New Orleans, Louisiana, 1996, 104 Abstr F25.</p>	1996
<p>MacGowan, A., Bowker, K. et al. 1997.  Bay 12-8039, a new 8-methoxy-quinolone: comparative <i>in-vitro</i> activity with nine other antimicrobials against anaerobic bacteria.</p> <p>J Antimicrobial Chemother. 40:503-509.</p>	October 1997
<p>Maggiolo, F., Capra, R., et al. 1997.  Subinhibitory concentrations of BAY 12-8039, pharmacodynamic effect <i>in vitro</i>. Abstract &amp; Poster. F-147, p 171.</p> <p>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</p>	1997

DESCRIPTION	DATE
<p>Nichterlein, T., Kretschmar, M., Hof, H. 1996.  BAY 12-8039, a new quinolone derivative is superior to standard therapeutics in murine salmonellosis and listeriosis.  Abstract and Poster F-14, p 102. <i>In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</i></p>	1996
<p>Nishino, T., Gotoh, Y., Otsuki, M. 1997.  <i>In vitro</i> and <i>in vivo</i> antibacterial activity of BAY 12-8039, a new quinolone. Abstract and Poster 3352, p 108.  <i>In program and abstracts of the 20<sup>th</sup> International Congress of Chemotherapy, Sydney, Australia.</i></p>	1997
<p>Ostergaard, C., Sorensen, T., <i>et al.</i> 1997.  Evaluation of a new 8-methoxyquinolone – BAY 12-8039 – against a penicillin-resistant <i>Streptococcus pneumoniae</i> type 9V in experimental meningitis in rabbits.  Abstract and poster B77, p 40. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997
<p>Pong, A., Thomson, K., <i>et al.</i> 1997.  Activity of BAY 12-8039 against staphylococcal and pneumococcal mutants with diminished susceptibility or resistance to ciprofloxacin.  Abstract and Poster C-85, p 61. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997
<p>Renaudin, H., Bebear, C., <i>et al.</i> 1996.  <i>In vitro</i> activity of BAY 12-8039, a new fluoroquinolone against <i>Mycoplasma</i>. Abstract, F-9, p 101.  <i>In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</i></p>	1996
<p>Rouse, M., Piper, K., <i>et al.</i> 1997.  <i>In vitro</i> and <i>in vivo</i> activity of ciprofloxacin, levofloxacin, sparfloxacin or BAY 12-8039 against penicillin-resistant <i>Streptococcus pneumoniae</i>.  Abstract and Poster B-3, p 26. <i>In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</i></p>	1997

DESCRIPTION	DATE
Schmidt, H., Dalhoff, A., et al. 1998. Moxifloxacin in the therapy of experimental pneumococcal meningitis.  <i>Antimicrob Agents Chemother.</i> 42:1397-1401.	June 1998
Schmitz, F., Verhoef, J., et al. 1998. <i>In vitro</i> activity of various antimicrobials against 194 unrelated clinical methicillin-resistant <i>Staphylococcus aureus</i> (MRSA) isolates and stability of MIC values in 125 clonally related clinical MRSA.  Abstract and poster 13.007, p 22. <i>In Abstracts of the 8<sup>th</sup> International Congress of Infectious Diseases</i> , Boston, Massachusetts.	1998
Stass, H., Dalhoff, A., et al. BAY 12-8039, a new methoxyquinolone: First pharmacokinetic results in healthy male volunteers.  Abstracts selected from the 36. ICAAC by Bayer, New Orleans, Louisiana, 1996, 27 Abstr F024.	1996
Stass, H., Dalhoff, A., et al. Pharmacokinetics, safety and tolerability of ascending single doses of moxifloxacin, a new 8-methoxy quinolone, administered to healthy subjects.  <i>Antimicrob Agents Chemother</i> , 1998, 42:2060-2065.	August 1998
Stass, H., Halabi, A., et al. No dose adjustment needed for patients with renal impairment receiving oral BAY 12-8039.  <i>Intersci Conf Antimicrob Agents Chemother</i> , San Diego, California, 1998, 4 Abstr A-14.	1998
Stass, H., Kubitz, D., et al. BAY 12-8039 does not interact with theophylline.  <i>Int Congr Chemother ICC</i> , Sydney, Australia, 1997, 108 Abstr 3356.	1997
Stass, H., Kubitz, D., et al. BAY 12-8039, a new 8-methoxy-quinolone: Pharmacokinetics, safety and tolerability of single ascending intravenous doses in healthy male volunteers.  37 <i>Intersci Conf Antimicrob Agents Chemother</i> , Toronto, Ontario, Canada, 1997, 172 Abstr F-153.	1997

DESCRIPTION	DATE
<p>Stass, H., Kubitz, D., <i>et al.</i>            Pharmacokinetics, safety and tolerability of 800 mg BAY 12-8039 administered orally as a single dose.            8 Eur Congr Clin Microbiol Inf Dis, Lausanne, Switzerland, 1997, Abstr p 388.</p>	1997
<p>Stass, H., Schuehly, U., <i>et al.</i>            Pharmacokinetics, safety and tolerability of 600 mg BAY 12-8039 administered once daily over 10 days.            Clin Microbiol Infect 3, Eur Congr Clin Microbiol, Lausanne, Switzerland, 1997, 87 Abstr p 387.</p>	1997
<p>Sullivan, J., Woodruff, M., <i>et al.</i>            Pharmacokinetics and tolerability of the new methoxyquinolone BAY 12-8039: 10 days treatment at 400 mg daily.            8 Eur Congr Clin Microbiol Inf Dis, Lausanne, Switzerland, 1997, Abstr p 389.</p>	1997
<p>Tarasi, A., Monaco, M., <i>et al.</i> 1997.            Activity of BAY 12-8039 (B) in combination with vancomycin (V) or teicoplanin (T) against <i>S. aureus</i> (SA) isolated from infections unresponsive to glycopeptides (G).            Abstract and Poster F-141, p 170. In Program and abstracts of the 37<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, Toronto, Canada.</p>	1997
<p>Thomson, K., Backes, S., Sanders, C. 1996.            Susceptibility to BAY 12-8039 of pneumococci and staphylococci with varying levels of ciprofloxacin resistance.            Abstract and Poster F-16, p 102. In PROGRAM AND ABSTRACTS OF THE 36<sup>TH</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</p>	1996
<p>Vesga, O., Conklin, R., <i>et al.</i> 1996.            Pharmacodynamic activity of BAY 12-8039 in animal infection models.            Abstract and Poster F-22, p 102. In Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</p>	1996

DESCRIPTION	DATE
<p>Waterbury, K., Wang, J., <i>et al.</i> 1996.            Efficacy of BAY 12-8039, a potent new quinolone in mouse models of typical and atypical respiratory infection.            Abstract and Poster F-18, p 102. <i>In</i> Program and abstracts of the 36<sup>th</sup> Interscience Conference on Antimicrobial Agents and Chemotherapy, New Orleans, Louisiana.</p>	1996
<p>Zhanel, G., Karlowsky, J., Hoban, D. 1998.  <i>In vitro</i> activities of six fluoroquinolones against Canadian isolates of vancomycin-sensitive and vancomycin-resistant <i>Enterococcus</i> species.            Diag Microbiol Infect Dis; 31:343-347.</p>	June 1998

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**CERTIFICATE OF SERVICE**

The undersigned counsel further certifies that, on January 25, 2008, copies of the foregoing document were sent to the following in the manner shown:

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